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sound, and conservative restatement of the truths already elucidated by his predecessors. It is similar in size and general scope to Tiffany on Real Property, but has the advantage of being published five years later and of having had Tiffany in part as a model—a model which might in some cases have been followed more closely with advantage.

Minor's text is fuller than Tiffany's, largely owing to its greater eloquence, but the foot-notes are much more meager—only half the number of cases being cited in the entire work. Special attention is given to the Virginian law, and constant reference is made to Minor's Institutes, an obscure book written by a namesake of the author, on whose work the new treatise purports to be founded. The book is equipped with a good index, full enough to make it really useful for the practicing lawyer as distinguished from the reader of law. For lawyers residing in Virginia and for students intending to practice there, the book will doubtless be a most valuable assistance. For the residents of other states it is inferior, in the clearness of its analysis and the exhaustiveness of its citations, to Tiffany. To be sure, it is of more recent date, but the law of real property is now so well settled and subject to so few changes that the lapse of five years does not appreciably impair the value of a book published in 1903, nor justify the addition of another book to the already stupendous nightmare of legal bibliography.

E. R. JR.

THE CRIMINAL RESPONSIBILITY OF LUNATICS. By Heinrich Oppenheimer. London: Sweet and Maxwell, Limited. 1909. pp. vi, 275.

The defense of insanity—thanks to newspaper trials of homicide cases and the willingness of some lawyers and some doctors to prostitute their learning and ability to aid the guilty to escape—has come to be looked for in almost every trial for murder, where the identity of the actor is known and the plea of self-defense cannot be raised. The defenses evolved by lawyers and the theories propounded by the doctors have at times been so bizarre, and the results achieved at times have seemed to be such obvious miscarriages of justice, that the layman and even the lawyer have thought that there must be something wrong with the law or with the rules for determining the criminal responsibility of lunatics.

Dr. Oppenheimer has undertaken to consider the rules of law governing such responsibility that are applied in the different countries of the civilized world. He brings to his task excellent qualifications, being both a trained lawyer and a trained doctor. This study in comparative law is brief, being merely a thesis approved for the degree of doctor of laws; but it is clearly reasoned and it is suggestive.

Dr. Oppenheimer points out that much of the confusion that exists is due to the fact that two distinct questions are unfortunately treated as one or as necessarily bound together. The question of a man's sanity is one,—a purely medical question; the question of a man's responsibility, or amenability to conviction or punishment, is another,—a purely legal question.

The law cannot determine when a man is insane. That purely medical question ought in every case to be determined first. The law can determine what insane men shall be held responsible. Here the law can adopt many rules, lying between the Chinese rule on the one extreme by which the criminal lunatic is treated just as an ordinary wrongdoer, and the French rule on the other extreme by which the insane criminal is held irresponsible.

Unfortunately, Dr. Oppenheimer does not reach any definite conclusion. After a review of the systems of all the civilized countries of the world, he decides that there is none which offers any advantages to the so-called "knowledge test" of the English law. He believes it is "as safe and satisfactory a working rule as has yet been devised."

He does reach one conclusion with which most will agree. He believes that the field of the lunacy experts should be restricted, and that they should cease

to be employed by the parties. If appointed by the court, they would not be under the temptation of becoming partisans, and after becoming familiar by reason of such employment with the rules of evidence and the distinction between things relevant and irrelevant, they could be trusted to tell their stories and give connected and logical accounts of the prisoner's mental state, "instead of scraps of information with which, under the present system of question and answer, they have to be contented."

At the end of the thesis a good bibliography is added.

S. H. E. F.

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